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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.989 OF 2004

Gandhi Special Tubes Ltd. ..Appellant.

V/s.

Jt. Commissioner of Income Tax ..Respondent.

Mr.S.J.Mehta for appellant.

Mr.R.Ashokan with P.S.Sahadevan for respondent.

CORAM : F.I.REBELLO AND
J.P.DEVADHAR, JJ.

DATED : 16TH OCTOBER, 2007.

P.C. :-

. There are three questions which are formulated in para 16 of the appeal memo. We are of the opinion that question (B) would cover all the three questions. Appeal is admitted on the following question of law:-

> " Whether on the facts and in the circumstances of the case, the respondent No.1 has rightly charged interest under section 234-B and 234-C for the assessment year 1998-99 under intimation dated 25/9/1999 issued under section 143(1) read with section 115JA of the Act ? "

2. Our attention is invited to the Judgment of the learned Division Bench of the Karnataka High Court

in **Kwality Biscuits Ltd. V/s. Commission of Income Tax** reported in **243 I.T.R. 519** where the very issue was raised and has been answered in favour of the assessee. The appeal was preferred by the revenue against the said Judgment before the Supreme Court. The Supreme Court in Civil Appeal Nos.1284 & 1285 of 2001 decided on 26th April, 2006 reported in 284 I.T.R. 434 (SC) has dismissed the appeal filed by the revenue. In the light of the above, the question as framed is answered in favour of the assessee and against the revenue. The appeal disposed of accordingly with no order as to costs.

(F.I.REBELLO, J.)

(J.P.DEVADHAR, J.)